land *v.* Vincent, 10 Metc. (Mass.) 371, 43 Am. Dec. 442; Garner *v.* Town of East Point, 67 S. E. 847.

This is a headnote opinion by Supreme Court of Georgia.

Scope of Statute Abolishing Survivorship between Tenants by Entireties.—It was decided by the Supreme Court of West Virginia in Irvin *v.* Stover, 67 S. E. 1119, that § 18, ch. 71, of their Code abolishing the common-law right of survivorship between tenants by entireties, did not apply to a life estate by entireties, but that survivorship as to such an estate remains at common law. In other words that provision of their Code applies only to estates of inheritance. But it is unlikely that this decision would be followed in Virginia, because § 2430 of the Code of 1904 in abolishing survivorship uses the terms "any estate;" and this would certainly indicate an intention on the part of the legislature to include estates of every kind whatsoever, especially as this was passed as an amendment to a similar section in the Code of 1850 which applied in terms only to estates of inheritance.

Registration of Automobiles as Affecting Recovery for Injuries to Passengers.—In Feeley *v.* City of Melrose, 91 Northeastern Reporter, 306, the Supreme Judicial Court of Massachusetts held that, where an automobile was not registered as required by law, there could be no recovery for injuries to the passengers, or for damages to the automobile, caused by running into an open trench in a highway, although the passengers did not know that it was not registered. It appeared that the automobile had been registered, but that there had been a transfer of its ownership before the accident, thereby causing the registration to expire, a statute providing that upon the transfer of ownership of any automobile its registration expired. As no new registration was made, the court held that the automobile was unlawfully upon the highway, and that the passengers were not travelers, but trespassers.*

---

*It is unlikely that the decision in this case will be very generally followed. It seems misleading in the extreme to state that no duty is owing to the innocent occupants of an auto in such a case as this, where injuries were reasonably to have been anticipated by a failure to properly maintain the highway in proper repair.

The rule in this jurisdiction is well settled that the violation of a statute or municipal ordinance is merely evidence of negligence, and is not in any sense prima facie evidence thereof. But even in those jurisdictions in which it is held that such violation is negligence per se, a causal connecton between the act and the injuries must still be established. Platt, etc., Canal Co. *v.* Dowell, 17 Colo. 376; Pennsylvania R. Co. *v.* Hensil, 70 Ind. 569.

Thus it has been said that a person violating a public ordinance is a wrongdoer and negligent ex necessitate in the eye of the law, but

Railroad Brakeman Not a Balloonist.—Because Van Fleet, insured as a railroad brakeman, was killed while making an ascent in a balloon, defendant insurance company asserted that in so doing he was following the occupation of an æronaut, and therefore recovery could only lie for the rate fixed for the latter more hazardous occupation. The policy provided that if insured was injured or killed while following any occupation, or in any exposure, or performing acts parallel in hazard to the characteristic acts of any occupation classed by the company as more hazardous than that specified in the application for the policy, recovery therefor should be at the rate fixed for such more hazardous occupation. The Supreme Court of Colorado, in Pacific Mut. Life Ins. Co. of California *v.* Van Fleet, 107 Pacific Reporter, 1087, held that as the only classification made by the insurance company is of occupations, and not of particular acts or exposures, a change of occupation, such as will defeat the policy, must be a permanent change, or a temporary change in all substantial respects a change of occupation, and that the policy is not defeated by the performance of some individual act, or indulging or engaging in a particular exposure, which, as in this case, is of a more hazardous nature than that attending the fixed occupation given by the insured.

Turkeys Taken by Mistake Must Be Placed in Owner's Possession.—While defendant was driving along the highway, in the vicinity of plaintiff's farm, she found a hen turkey and ten chicks in the road, and, believing that they belonged to her flock and were astray, caught them and took them home. Plaintiff, missing his brood, and having heard that defendant had found one, drove over to defendant's farm to make inquiries. She told him that she did not know whether the turkeys belonged to him or not, but that if he said they did he might take them. The turkeys, however, were in the uncut oats, making

---

that a negligent person injured by the wrongful act is entitled to redress. Jetter *v.* New York, etc., R. Co., 2 Abb. App. Dec. (N. Y.) 458.

In a headnote opinion by the court of appeals of Georgia, it was decided that the fact that the plaintiff was himself at the time of his injury engaged in an act violative of the penal laws of this state (in this case, gaming) does not preclude his recovery for damages resulting to him from the negligence of another, provided that his unlawful act did not proximately contribute to bringing about his injury. 29 Cyc. 125; Johnson *v.* Rome Ry. & Light Co., 4 Ga. App. 742, 745, 62 S. E. 491; Norris *v.* Litchfield, 35 N. H. 271, 69 Am. Dec. 546; Moone *v.* Smith, 67 S. E. 836.

The decisions in our fertilizer cases in this state might be applied by analogy in such a case as this. It is there held that where statutes require of sellers of commercial manures the observance of certain conditions, under penalty, but do not declare contracts for sale void for nonobservance, the seller may recover on such a contract, although he has failed to conform to the statutory requirements. Niemeyer *v.* Wright, 75 Va. 239, 40 Am. Rep. 720.